

## REMARKS

### Summary of the Office Action

In the office action mailed October 26, 2005, the Examiner rejected claims 1-4, and 7-20 under 35 U.S.C. § 102(e) as being anticipated by Wang (U.S. Patent No. 6,035,207), hereinafter referred to as Wang. Further, the Examiner also rejected claims 1-4 and 8-20 as being anticipated by Wang (U.S. Patent No. 5,280,630), hereinafter referred to as Wang(ii). In addition, the Examiner rejected claim 5 under 35 U.S.C § 103(a) as being unpatentable over Wang(ii) and further in view of McKee (U.S. Patent No. 6,810,343) and rejected claim 6 under 35 U.S.C § 103(a) as being unpatentable over Wang(ii).

The amendments to the specification do not introduce any new subject matter. The specification refers to channel resources as devices, and the figures depict the various call processing devices. See, e.g., page 8, line 20 “a channel related resource may consist of *any device* used in a communication session...”.

Applicant has amended claims 1-3 and 9-20. Applicant has also added claims 21-24. Presently pending are claims 1-24, of which claims 1 and 16 are independent and the remainder are dependent.

The Applicants submit that the application is in condition for allowance, and such action is respectfully requested.

### **The Claimed Invention**

The claimed invention provides a method for selecting channel resource devices when completing a call connection via a PSTN (Public Switch Telephone Network). A channel evaluator receives connection outcome results of previous call connections and generates a statistical analysis based at least in part, on the connection outcome results.

The evaluator then uses these results to assign another incoming call to a channel resource device to complete a call connection. A channel resource device may consist of any device used in a communication session, from the origination of the information to the final receipt of the information. A channel related resource device may include a modem, a codec, a modem bank station, an internal TI time-slot interface device, a Dynamic Shared Object (DSO) or other related internal entities used to process or be the destination for an incoming call.

### **The Prior Art**

#### **a. Wang (U.S. Patent No. 6,035,207)**

Wang teaches a method for allocating frequency channels to a given zone. A zone is an independent paging area that consists of one or more transmitters wherein messages are simulcast by the transmitters in the zone. Frequency channels will be allocated to a given zone only if (i) the channel passes a channel quality check that may be based on co-channels and adjacent channel interferences or (ii) a channel proposed for assignment to a given zone is currently in use by a zone that is correlated with the given zone. Transmitters are assigned priority values depending on both (i) message traffic

level and (ii) latency of the message traffic i.e. the waiting delay of the message traffic to be transmitted by the transmitter unit.

**b. Wang(ii) (U.S. Patent No. 5,280,630)**

Wang(ii) teaches a method for channel allocation in radio communication system where in frequency channels are listed in a decreasing sequence of the values of their quality function. “The one of a plurality of channels is allocated in accordance with mean margin value of a plurality of measured margins of channel quality of the one of the plurality of channels in relationship to a predetermined threshold channel quality” (See, e.g., Wang(ii), column 2, lines 31-34).

**Response to the 102 Rejections**

**a. Response to 102(e) Rejection anticipated by Wang (US. Patent No. 6,035,207).**

As noted above, the Examiner rejected claims 1 and 7 under 35 U.S.C § 102(e) as being allegedly anticipated by Wang. Applicants respectfully traverse the 102 rejections of claims 1 and 7. In order to anticipate the pending claims, a single reference must include all of the claim elements. The *Wang* reference fails to disclose various aspects of the amended claims. In particular, claim 1 as amended, requires ***receiving connection outcome results of previous call connections handled by the channel resource devices wherein the connection outcome results are indicative of channel resource device failures.***

Applicant’s specification teaches that “those resources that have the highest failure rate per unit time are not used or are used as a last resort, post-poning any call

failures as much as possible” (See, e.g., Applicant’s Specification, page 11, lines 14-15). Applicant’s specification continues to state, “if a single defective channel is present, all other channels are in use before the known “problem” is used” (See, e.g., Applicant’s Specification, page 11, lines 15-20).

Wang teaches that the channels being assigned to different zones are not physical devices but are in fact frequency channels. “In accordance with one known method for allocating frequency channels are described in U.S. Patent No. 5,280,630, each base station which includes a transceiver and controller determines the frequency channel to be used to transmit a message using a preferred channel list thereby providing a fully distributed channel allocation scheme wherein each base station can operate independently to carry out this function” (See, e.g., Wang, column 1, lines 33-40).

As referenced by the Examiner, Wang states that after a sub channel has transmitted messages and an acknowledgment has been received, the “processor 46 increases the probability of success (POS) of the assigned sub-channel for the given transmitter unit. If an acknowledgment was not received, however, the process 46 at block 112 decreases the channel priority value of the assigned sub channel since the assigned sub-channel was not good enough” (See, e.g., Wang, column 8, lines 40-54).

In light of above, Wang teaches that the outcome results are indicative of the performance of frequency channels, and the probability ratings of frequency channels are increased or decreased. In contrast, Applicant’s specification teaches that outcome results are indicative of channel resource device failures, which may include either hardware or software failures.

Because there is no disclosure in Wang that the connection outcome results are indicative of channel resource device failures, Wang does not teach all of the elements of any of independent claim 1. Consequently, Wang does not anticipate claim 1.

Claim 7 depends from, and thus incorporates all of the limitation of independent claim 1. Thus for the same reason, Wang does not anticipate any of dependent claim 7.

In light of above, Applicant respectfully request withdrawal of rejections under 35 U.S.C § 102(e) as being anticipated by Wang.

**b. Response to 102 Rejection anticipated by Wang(ii) (US. Patent No. 6,035,207).**

As noted above, the Examiner rejected claims 1-4 and 8-20 under 35 U.S.C § 102(e) as being allegedly anticipated by Wang(ii). Applicants respectfully traverse the 102 rejections of claims 1-4, and 8-20. In order to anticipate the pending claims, a single reference must include all of the claim elements. The Wang(ii) reference fails to disclose various aspects of the amended claims. In particular, claims 1 and 16 as amended, requires *outcome results are indicative of channel resource device failures*.

Applicant's specification teaches that "those resources that have the highest failure rate per unit time are not used or are used as a last resort, post-poning any call failures as much as possible" (See, e.g., Applicant's Specification, page 11, lines 14-15). Applicant's specification continues to state, "if a single defective channel is present, all other channels are in use before the known "problem" is used" (See, e.g., Applicant's Specification, page 11, lines 15-20).

Wang(ii) teaches that the channel quality of the channels for a base station will be updated whenever (a) a service (e.g. a call) is finished successfully; (b) a service is interrupted; or (c) a channel is rejected for service initiation due to bad quality (See, e.g., Wang(ii), column 5, lines 54-63).

Because there is no disclosure in Wang(ii) that the outcome results are indicative of channel resource device failures, Wang(ii) does not teach all of the elements of any of independent claims 1, and 16. Consequently, Wang(ii) does not anticipate any of these claims.

Each of claims 2-4, 8-15, and 17-24 depend from, and thus incorporates all of the limitation of, one of these independent claims. Thus for the same reason, Wang(ii) does not anticipate any of these dependent claims.

In light of above, Applicant respectfully requests withdrawal of these rejections under 35 U.S.C § 102(e).

### **Response to the 103 Rejections**

As noted above, the Examiner rejected claim 5 under 35 U.S.C § 103(a) as being unpatentable by Wang(ii), and further in view of McKee (U.S. 6, 810, 343), hereinafter referred to as McKee. As described above, with respect to claim 1, there is no disclosure in Wang(ii) that the outcome results are indicative of channel resource device failures. McKee does not make up for the deficiencies of Wang(ii). Therefore, because claim 5 depends from the amended independent claim 1, and incorporates all of the limitation of independent claim 1, claim 5 is also in condition for allowance.

As noted above, the Examiner rejected claim 6 under 35 U.S.C § 103(a) as being unpatentable by Wang(ii). There is no disclosure in Wang(ii) that the outcome results are indicative of channel resource device failures. Because claim 6 depends from the amended independent claim 1, and incorporates all of the limitation of independent claim 1, Applicant respectfully requests withdrawal of rejection of claim 6 under 35 U.S.C § 103(a).

**Conclusion**

In view of the foregoing, Applicant submits that all of the pending claims 1-24 are in condition for allowance. Therefore, Applicant respectfully requests favorable reconsideration and notice to that effect.

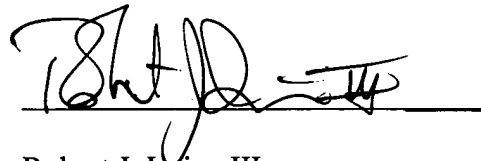
Respectfully submitted,

**McDONNELL BOEHNEN**

**HULBERT & BERGHOFF LLP**

Dated: February 27, 2006

By:

A handwritten signature in black ink, appearing to read "Robert J. Irvine III", is written over a horizontal line.

Robert J. Irvine III  
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